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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------------|---------------------|------------------|
| 10/736,305 | 12/15/2003 | Antonio J. Aldykiewicz JR. | L3862-01 | 5459 |

7590

03/16/2006

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| EXAMINER |
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HORTON, YVONNE MICHELE

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| ART UNIT | PAPER NUMBER |
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3635

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/736,305 | ALDYKIEWICZ ET AL. | |
| | Examiner | Art Unit | |
| | Yvonne M. Horton | 3635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-10, 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-10 and 14 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Withdrawal of Allowable Subject Matter

The indicated allowability of claims 8 and 9 is withdrawn in view of the newly discovered reference(s) to WEIR. Rejections based on the newly cited reference(s) follow.

Claim Objections

Claim 13 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 13 currently depends on claim 12; however, claim 12 has been canceled. Correction is required.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 8-10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,148,644 to WEIR in view of US Patent #6,295,781 to THOMPSON. WEIR discloses the method of providing minimizing corrosion of metal devices (nails-not labeled) in wood constructions including the step of capping the ends of a plurality of wood joists (16) with a membrane barrier (as at 20,40) having a carrier support layer (30',41) attached to a pressure sensitive (compressible) waterproofing layer (19); and connecting the capped ends, see figure 15, to a rim wood joist (16') or to another wood structural member (17) such that the pressure sensitive (compressible) waterproofing

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layer (19) seals around metal fasteners driven therethrough, column 2, lines 37-42.

WEIR discloses the basic claimed method except for the wood explicitly being pretreated, except for the pressure sensitive layer specifically being an adhesive and except for the joists being joined using a metal joist hanger. Regarding the issue of pretreated wood, it is old and very well known in the art to pre-treat wood. In reference to the pressure sensitive adhesive, although WEIR does not specifically disclose that his layer is an adhesive, it is the functional equivalent of the requirements set fourth in the claim. For instance the claim requires that the adhesive seal around the fastener. Clearly, column 2, lines 37-42, WEIR, discloses the same function. Regarding the issue of the use of a metal joist hanger, THOMPSON, teaches that it is known in the art to provide a wood structure with a metal joist hanger (10) in order to aid in connecting the joists (S) and rim joists (T1,T2). Thus, it would have been obvious to one having ordinary skill in the art to provide the structure of WEIR with the metal joist hanger of THOMPSON, in order to strengthen the connection of the structural members. Metal hangers give added rigidity and provides for an ease of seating one member with regards to another. In reference to claim 9, the membrane (20) is applied to an upper surface of the ends of the longitudinal length of the joists. Regarding claim 10, the membrane (20) is non-water absorptive (i.e. waterproof), column 1, line 56. In reference to claim 14, WEIR is silent with regards to the material used to form his fasteners. However, galvanized steel fasteners are old and very well known in the art. Thus, it would have been obvious to one having ordinary skill in the art to select a known material suitable for the use intended as an obvious matter of design choice.


For instance in structures having smaller load requirements nylon or perhaps plastic fasteners might be appropriate. However, in structures having larger load requirements steel fasteners are more appropriate.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yvonne M. Horton
Art Unit 3635
3/8/06